IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2339 OF 2006

Smt. S.A. Wankhede and Ors. ... Petitioners

Vs.

The Ld. Chief Judge of
the Small Causes Court,
Mumbai and Ors. ... Respondents

Mr. Anilkumar Joshi for Petitioner.

Mr. A.A. Kumbhakoni, Associate Advocate General
with Mr. K.R. Belosey, A.G.P. for R. Nos. 1 and 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: OCTOBER 07, 2006

P.C.:

. Heard the parties.

. Mr. R.M. Palhade, Registrar (Legal), High Court, Appellate Side, Bombay has filed his affidavit dated 3.10.2006. There is no dispute that the Petitioners herein passed higher standard departmental examination in December, 2004. The D.P.C. had earlier met and made appointments which were the subject matter of Writ Petition No. 612 of 2006 which was disposed of on 19.4.2006 with certain directions. The subject matter of the challenge in those writ petitions was to promotions made pursuant to the D.P.C. which met on 1.7.2005. Consequent to the petition being allowed, the orders of promotion were set aside and directions were given to the

D.P.C. to hold D.P.C. in terms of what is set out in the judgment. It is consequent to that, that a fresh D.P.C. was constituted which has recommended promotions, which are the subject matter of the present petition.

. From the affidavit of Mr. Palhade, it is clear that there were 13 vacancies in the year 2003. There were 15 eligible candidates. As such 13 candidates ought to have been appointed, if they were found otherwise eligible. Inspite of that only 5 were appointed and 8 posts were carried forward. This really would not be the correct procedure as the D.P.C. has to consider all vacancies which are available and the proportion of 1:3 ratio cannot be made applicable to the post. A review D.P.C. will have to be held in respect of the candidates who were eligible so that they also can be given date of 2003.

. For the year 2004, there were 7 vacancies. If we consider the D.P.C. which met on 1st July, 2005, the Petitioners herein would not have been eligible for consideration as they became eligible only in December, 2004. In these circumstances, two eligible candidates would not have been considered against 7 new vacancies which arise for the year 2004. Once that be the case, in our opinion, the

Petitioners, cannot have grievance to the selection procedure. The Respondent Nos. 1 to 3 who at all have the grievance. In the light of that, Petition disposed of with direction to the D.P.C. to hold review D.P.C. for the year 2004 for giving deemed date.

. With the above observations, Petition stands disposed of.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**